

TO MR. CARY

FROM: WPB

DATE 16 October 1975

SUBJECT: Report on S. 797, S. 798,
S. 799, and S. 800

SUSPENSE DATE _____

NOTE: Attached is our proposed response to a request for comments on S. 797-S. 800, bills regarding proceedings for formal adjudicatory hearings on the record of Federal agencies and the judicial review of administrative agency action. S. 797, S. 798 and S. 799 would virtually have no impact on CIA. S. 800 could have an effect, but Justice is opposing the abolishing of sovereign immunity. A more troublesome and related bill, S. 796, has to be studied further before we can be confident that it will not have an effect on the Agency. Therefore, our report on S. 796 will be sent separately.

COORDINATED WITH (list names as well as offices):

STATINTL

Name

OGC
Office

Name

Office

Name

Office

ACTION REQUIRED BY GLC: Approve for typing in final

Honorable James O. Eastland, Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for our comments on S. 797, S. 798, and S. 799, bills to amend the Administrative Procedure Act; and on S. 800, a bill to amend sections 702 and 703 of Title 5 and section 1331 of Title 28 of the United States Code with respect to procedure for judicial review of administrative agency action.

The Administrative Procedure Act establishes the principles and requirements which, in general and to varying degrees, govern administrative procedures of Federal agencies as they affect private rights or public interests through adjudications or certain rulemaking. The Central Intelligence Agency is not such an administrative authority. It was established by the National Security Act of 1947 to coordinate the intelligence activities of the United States; to correlate, evaluate and disseminate foreign intelligence; and to perform other functions and duties related to intelligence and affecting the national security.

The amendments to the Administrative Procedure Act proposed in S. 797, S. 798, and S. 799 are consequently of little or no significance to the Central Intelligence Agency. Therefore, with respect to these three bills, we defer to the views of those agencies more directly affected.

S. 800 would abolish the defense of sovereign immunity with respect to actions in Federal courts seeking relief other than money damages and stating a claim against an agency officer acting in an official capacity. It

would also permit a plaintiff in judicial review proceedings to name as defendant the United States, the agency, or the appropriate officer and would liberalize venue requirements for such actions. Finally, the bill would eliminate the requirement that there be at least \$10,000 in controversy for Federal question jurisdiction under 28 U.S.C. 1331. On these matters, we defer to the position of the Department of Justice.

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. E. Colby
Director